

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
REAL PROPERTY INVESTMENT CORPORATION }

Appearances:

For Appellant: Charles S. Wheeler, Charles S. Wheeler,
 Jr., and Walter Slack
For Respondent: ~~Reynold~~ E. Blight, Franchise Tax Commis-
 sioner

O P I N I O N

This is an appeal under Section 25 of the Bank and Corporation Franchise Tax Act (Chapter 13, Statutes of 1929) from the action of the Franchise Tax Commissioner in overruling the protest of Real Property Investment Corporation against proposed assessment of an additional tax of \$1,735.07 based upon the net income of said corporation for the year ended September 30, 1928.

Two points are urged as the basis for this appeal:

1. That the Franchise Tax Commissioner erred in his computation of the proposed additional assessment by refusing to recognize the validity of the contention of the Appellant that it could be taxed only for the **privilege** of exercising its corporate franchise from July 1, 1929, to December 31, 1929, and that any tax imposed for the privilege of the exercise of its franchise during a period prior to July 1, 1929, would be unconstitutional.

2. That the Franchise Tax Commissioner erred in refusing to accept the actual cost of certain real property acquired by the Appellant in 1904 as the basis for determination of the loss sustained upon the sale of such property in 1928.

Similar points were urged in the appeal of San Christina Investment Company and affiliated corporations and were determined adversely to the Appellants in the decision filed in that matter on August 4, 1930. The same arguments are now urged in support of the present appeal.

After careful consideration of the points involved we are still of the opinion that there is no constitutional inhibition against whatever overlap there may have been between 1928 corporate franchise taxes and the first taxes to be levied under Chapter 13, Statutes of 1929, covering a period beginning January 1, 1929. For reasons which we have discussed in detail in our opinion in the matter of the appeal

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of San Christina Investment Company and affiliated corporation we are unable to agree with the contention of the Appellant, in the matter now before us, that it is entitled to have the cost of the property acquired prior to January 1, 1928, and sold during that year used as the measure of determining whether or not a loss was sustained in the transaction. Upon authority of our opinion and order in the San Christina Investment Company case we believe that the action of the Franchise Tax Commissioner should be sustained in this appeal.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the action of Reynold E. Blight, Franchise Tax Commissioner, in overruling the protest of Real Property Investment Corporation a corporation, against a proposed additional assessment based upon its return for the year ended September 30, 1928, under Chapter 13, Statutes of 1929, be and the same is hereby sustained.

Done at Sacramento, California, this 19th day of January, 1931, by the State Board of Equalization.

Jno. C. Corbett, Chairman
R. E. Collins, Member
H. G. Cattell, Member
Fred E. Stewart, Member

ATTEST: Dixwell L. Pierce, Secretary